IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPEAL NO.931 OF 1998

WITH

CRIMINAL APPLICATION NO.2314 OF 2001

Mushtaq Abdul Majeed Shaikh)
@ Raju Mechanic, Aged : 30 yrs.)
Residing at Kondaji Chawl, 1st)
floor, Room No.16, Haines Road) Appellant
Byculla, Mumbai - 400 011.) (Orig.Accused)
[Presently lodged at Arthur Road)
Central Prison, Mumbai)

versus

The State of Maharashtra) Respondent.

Mr.Amin H. Solkar for the Appellant.
Mr.P.S.Hingorani, APP, for the Respondent.

CORAM : D.G.DESHPANDE &
V.M.KANADE, JJ.
DATED : 14th November 2005.

OPERATIVE ORDER

. For the reasons separately recorded, the

following order is passed :-

The Appeal is partly allowed.

The accused/appellant is convicted for the offence punishable under Sections 394, 449 of the Indian Penal Code and is sentenced to suffer R.I. for five years and also liable to pay fine to the tune of Rs.1000/- and in default of payment of fine he shall suffer further imprisonment of one month.

The accused/appellant is, however, acquitted of the offence punishable under Section 302 of the Indian Penal Code.

The accused/appellant is in jail since 30/3/1997 and the period which he has undergone shall be set off against the sentence which is awarded by this Court. If the sentence which he has already undergone including remission which he is legally entitled to is more than five years, he shall be released forthwith

unless he is otherwise required in any other case.

The order of the trial Court regarding disposal of Muddemal Property is confirmed.

Criminal Application No.2314 of 2001 is for bail. It does not survive in view of the aforesaid order. It is disposed of.

Appeal is disposed of in the above terms.

[D.G.DESHPANDE, J]

[V.M.KANADE, J]